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7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**
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10 JOEL M. CRAM, MINH D. NGUYEN, and
11 ROES 1 through 10, individually, and on
behalf of all others similarly situated,

12 Plaintiffs,

13 vs.

14 ELECTRONIC DATA SYSTEMS
15 CORPORATION, a Delaware
corporation, and DOES 1 through 100,
16 inclusive,

17 Defendants.

CASE NO. 07cv1842-LAB (NLS)

ORDER GRANTING *EX PARTE*
APPLICATION FOR MOTION
HEARING CONTINUANCE

[Dkt No. 31]

18 This matter is before the court on Plaintiffs' *Ex Parte* Application To Continue Hearing
19 On Plaintiffs' Motion For Remand in this putative class action asserting violations of the
20 California Labor and Business and Professions Codes.

21 Defendant Electronic Data Systems Corporation ("EDS") removed the action to
22 federal court on September 20, 2007 in reliance on federal jurisdiction allegedly conferred
23 pursuant to the Class Action Fairness Act of 2005 (28 U.S.C. § 1332(d)) ("CAFA"), diversity
24 of citizenship, and 28 U.S.C. §§ 1441(a), 1446. Plaintiffs filed a Motion For Remand on
25 September 25, 2007, with a November 13, 2007 hearing date. Plaintiffs represent they filed
26 the remand motion "at the earliest possible date" to avoid adjudication of "any merits issue
27 prior to determining whether [the court] has subject matter jurisdiction," but with the intention
28 "to simultaneously seek pre-hearing discovery by *ex parte* application" and, if necessary, to

1 "seek a continuance of the hearing on the [Remand] Motion to permit Plaintiffs to utilize the
2 products of such" discovery. Dkt No. 4, 5:10-14. Plaintiffs applied *ex parte* to the magistrate
3 judge assigned to this case, Hon. Nita L. Stormes, also on September 25, 2007, for leave
4 to conduct discovery in advance of the remand hearing. The parties do not dispute two of
5 the three CAFA requirements for federal jurisdiction over this dispute are satisfied (*i.e.*, size
6 of the putative class and diversity of citizenship), but they dispute the amount in controversy.
7 EDS alleges with a demonstration in its Notice of Removal that the amount the Complaint
8 places in controversy exceeds \$10,000,000, plus attorneys' fees and expenses. Plaintiffs
9 contend the \$5,000,000 threshold for federal CAFA jurisdiction is not satisfied.

10 By Order entered October 3, 2007, Judge Stormes granted Plaintiffs' request for leave
11 to conduct jurisdictional discovery on the amount in controversy issue, over EDS's
12 opposition. Dkt No. 18. However, she reasonably limited "not only the scope and duration
13 of jurisdictional discovery," but also restricted "the discovery method to the use of
14 interrogatories only, in the interest of judicial economy and in an effort to lessen the burden
15 that this discovery may place on the parties." Dkt No. 18, 7:9-12. She authorized each side
16 to propound a single set of interrogatories not to exceed ten (10) in number, directed
17 specifically towards establishing the amount in controversy. She ordered the expedited
18 discovery be completed within thirty (30) days of the date of her Order. Dkt No. 18, 7:18-20.

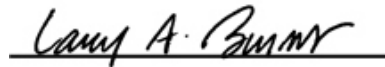
19 In consideration of that discovery authorization, the undersigned District Judge
20 continued the hearing of Plaintiff's Motion To Remand from November 13, 2007 to
21 December 3, 2007. Dkt No. 22. The briefing schedule was correspondingly continued, so
22 that EDS' Opposition is currently due November 19, 2007 and Plaintiffs' Reply
23 November 26, 2007. Plaintiffs' counsel, David J. Gallo, Esq., now moves *ex parte* to
24 continue the hearing date and briefing schedule for three weeks or, alternatively, for five
25 weeks. He represents the requested three-week extension is not opposed by defense
26 counsel, in consideration of surgery he learned on October 31, 2007 he needs to undergo
27 shortly before Plaintiffs' Reply papers are due to be filed, with a recovery period anticipated
28 to last approximately ten (10) days before resumption of half-time work and fourteen (14) to

1 twenty-one (21) days before resumption of full-time work. Mr. Gallo represents EDS
2 opposes the alternative five-week continuance. He seeks the longer, alternative
3 continuance on the basis of a possible need for a supplemental response period after Judge
4 Stormes' December 11, 2007 hearing of Plaintiffs' Motion To Compel addressing two of the
5 interrogatories. EDS counsel has telephonically confirmed the accuracy of Mr. Gallo's
6 representations of its position and joins in Mr. Gallo's request that should any continuance
7 be granted, the remand motion briefing schedule be correspondingly continued.

8 For good cause shown, and in consideration of the non-opposition to a three-week
9 continuance, **IT IS HEREBY ORDERED** the hearing of Plaintiffs' Motion To Remand is
10 continued a second time, from December 3, 2007 to **December 31, 2007 at 10:30 a.m.**, with
11 a corresponding continuance of the Civ.L.R. 7.1(e) briefing schedule. **IT IS FURTHER**
12 **ORDERED** no further continuances of the remand motion hearing will be granted absent a
13 showing of extraordinary good cause.

14 **IT IS SO ORDERED.**

15 DATED: November 13, 2007

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17 **HONORABLE LARRY ALAN BURNS**
18 United States District Judge
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